



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-038, C-570-039]

Certain Amorphous Silica Fabric from the People's Republic of China: Final Affirmative Determinations of Circumvention

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of amorphous silica fabric (ASF) with 70 to 90 percent silica content (70-90 percent ASF) from the People's Republic of China (China) are circumventing the antidumping (AD) and countervailing duty (CVD) orders on certain amorphous silica fabric from China.

DATES: Applicable [Insert Date of Publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, AD/CVD Operations Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1121.

SUPPLEMENTARY INFORMATION:

Background

On September 6, 2022, Commerce published the preliminary affirmative determinations of circumvention of the AD and CVD orders¹ on certain amorphous silica fabric by imports of 70-90 percent ASF from China.² In the *Preliminary Determinations*, Commerce extended the deadline for the final determinations of these circumvention inquiries to December 2, 2022.³ On

¹ See *Certain Amorphous Silica Fabric from the People's Republic of China: Antidumping Duty Order*, 82 FR 14314 (March 17, 2017); and *Certain Amorphous Silica Fabric from the People's Republic of China: Countervailing Duty Order*, 82 FR 14316 (March 17, 2017) (collectively, *Orders*).

² See *Certain Amorphous Silica Fabric from the People's Republic of China: Preliminary Affirmative Determinations of Circumvention*, 87 FR 54458 (September 6, 2022) (*Preliminary Determinations*), and accompanying Preliminary Decision Memorandum (PDM).

³ *Id.* at 54460.

November 22, 2022, Commerce further extended the deadline for the final determinations of these circumvention inquiries to January 31, 2022.⁴ On September 8, 2022, Auburn Manufacturing, Inc. (AMI), the petitioner in the AD and CVD investigations (the petitioner), submitted comments on the *Preliminary Determinations*,⁵ and on September 27, 2022, submitted a case brief.⁶ No other party commented on the *Preliminary Determinations*. We conducted these circumvention inquiries in accordance with section 781(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(i).⁷

Scope of the Orders

The product subject to the *Orders* is ASF with a minimum silica content of 90 percent by weight, from China. A full description of the scope of the *Orders* is contained in the Issues and Decision Memorandum.⁸

Scope of the Circumvention Inquiries

These circumvention inquiries cover 70-90 percent ASF produced in China and exported to the United States.⁹

⁴ See Memorandum, “Extension of Circumvention Final Rulings,” dated November 22, 2022.

⁵ See Petitioner’s Letter “AMI Comments on Importer Certification,” dated September 8, 2022.

⁶ See Petitioner’s Letter, “AMI Case Brief,” dated September 27, 2022.

⁷ See *Certain Amorphous Silica Fabric Between 70 and 90 Percent Silica, from the People’s Republic of China: Initiation of Circumvention Inquiry of Antidumping and Countervailing Duty Orders—70–90 Percent Amorphous Silica Fabric*, 86 FR 67022 (November 24, 2021) (*Initiation Notice*), and accompanying Initiation Decision Memorandum. Although Commerce recently revised its circumvention regulations, under 19 CFR 351.226, the new circumvention regulations apply to circumvention inquiries for which a circumvention request is filed on or after November 4, 2021. See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (“{a}mendments to § 351.226 ... apply to circumvention inquiries for which a circumvention request is filed ... on or after November 4, 2021”). Because the petitioner filed its request on August 20, 2021, before the effective date of the new regulations, these circumvention inquiries are being conducted according to the circumvention regulations, 19 CFR 351.226, in effect prior to November 4, 2021. *Id.*

⁸ See Memorandum, “Certain Amorphous Silica Fabric from the People’s Republic of China: Issues and Decision Memorandum for Final Affirmative Determination of Circumvention,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁹ See *Initiation Notice* and Initiation Decision Memorandum; see also *Preliminary Determinations*, 87 FR at 54458-59 and PDM at 7.

Methodology

Commerce is conducting these circumvention inquiries in accordance with section 781(c) of the Act and 19 CFR 351.225(i). For a full description of the methodology underlying Commerce's final determinations, *see* the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as an appendix. We have not made any changes to the *Preliminary Determinations* based on our analysis of the comments received.

Final Affirmative Determinations

As detailed in the Issues and Decision Memorandum, we determine that 70-90 percent ASF produced in China and exported to the United States is circumventing the *Orders* on certain amorphous silica fabric from China. Therefore, we determine that it is appropriate to include this merchandise within the scope of the *Orders* on certain amorphous silica fabric from China and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend entries of 70-90 percent ASF produced in China and exported to the United States.

Continued Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(3), based on the final determinations in these circumvention inquiries, Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of 70-90 percent ASF produced in China and exported to the United States, and entered, or withdrawn from warehouse, for

consumption on or after November 24, 2021, the date of publication of the *Initiation Notice*. The suspension of liquidation will remain in effect until further notice. As we explained in the *Preliminary Determinations*,¹⁰ Commerce intends to instruct CBP to require AD and CVD cash deposits at the applicable rate for each unliquidated entry of the subject 70-90 percent ASF.

ASF with 70 percent or less silica content is not subject to these circumvention inquiries.¹¹ Commerce required cash deposits on all entries of 70-90 percent ASF but did not implement a certification process at the preliminary stage.¹² We received comments from the petitioner on the issue of establishing a certification process. For the final determinations, we will not implement a certification process,¹³ and we will require cash deposits on 70-90 Percent ASF produced in China and exported to the United States.¹⁴

Administrative Protective Order

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final affirmative determinations of circumvention are being issued and published in accordance with section 781(c) of the Act and 19 CFR 351.225(i).

Dated: January 27, 2023.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

¹⁰ See *Preliminary Determinations*, 87 FR at 54458-59.

¹¹ See *Initiation Notice*, 86 FR at 67022; see also *Preliminary Determinations*, 87 FR at 54458-59.

¹² See *Preliminary Determinations*, 87 FR at 54458-59.

¹³ See Issues and Decision Memorandum at Comment 2.

¹⁴ *Id.*

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Scope of the Circumvention Inquiries
- V. Discussion of the Issues
 - Comment 1: Whether Commerce Should Continue to Apply Adverse Facts Available and Continue to Find that 70-90 Percent ASF Constitutes Articles “Altered in Form or Appearance in Minor Respects”
 - Comment 2: Whether Commerce Should Establish a Certification Procedure to Enforce these Circumvention Determinations
- VI. Recommendation

[FR Doc. 2023-02214 Filed: 2/2/2023 8:45 am; Publication Date: 2/3/2023]